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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF:

SECURE RESOLUTIONS, INC., an Arizona
corporation,

DOUGLAS COTTLE and KYLA COTTLE,
husband and wife,

Respondents.

DOCKET NO. S-20677A-09-0256

NINTH
PROCEDURAL ORDER

BY THE COMMISSION:

On May 21, 2009, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Secure Resolutions, Inc. ("SRI") and Douglas Cottle and Kyla Cottle, husband and wife (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of stock, notes, warrants and/or investment contracts.

The Respondents were duly served with copies of the Notice.

On June 8, 2009, a request for hearing was filed by the Respondents, Douglas and Kyla Cottle. A request for hearing was also filed on behalf of SRI, but it could not be determined by whom the request was filed.

On June 12, 2009, by Procedural Order, a pre-hearing conference was scheduled on June 30, 2009.

On June 24, 2009, the Cottle Respondents filed a Motion for a Continuance in order to obtain legal counsel and to file an Answer. The Division did not object to this request.

On June 26, 2009, by Procedural Order, the pre-hearing conference was continued to July 23, 2009.

On July 23, 2009, at the pre-hearing conference, the Division appeared with counsel and

1 Respondents appeared on their own behalf. The parties indicated that they are discussing a possible
2 resolution of the proceeding by means of a Consent Order and requested that a status conference be
3 scheduled in approximately 45 days. By Procedural Order, a status conference was scheduled on
4 September 24, 2009.

5 On September 22, 2009, Notice of Appearance of counsel for Respondents was filed and
6 subsequently corrected to indicate that only the Cottle Respondents were being represented by
7 counsel.

8 On September 24, 2009, the Division and Cottle Respondents appeared through counsel.
9 Counsel for the Division indicated that a settlement has not yet been concluded between the parties
10 and requested that a status conference be scheduled in approximately 45 days. The parties also
11 agreed to the scheduling of a hearing in February 2010 to last approximately two weeks, if they are
12 unable to conclude a form of Consent Order for Commission approval.

13 On September 25, 2009, by Procedural Order, dates for a status conference and hearing and
14 other procedural matters were ordered.

15 On November 17, 2009, counsel for the Cottle Respondents filed an application to withdraw
16 as their counsel indicating that the Cottle Respondents had been notified in writing of the status of the
17 case including the dates and times of all proceedings and all procedural matters. It was further
18 indicated that Respondents had sought Chapter 7 bankruptcy protection and no longer desired legal
19 representation in this proceeding.

20 On November 18, 2009, the bankruptcy attorney for the Cottles filed a Notice of Automatic
21 Stay pursuant to 11 USC § 362(a)(1) of the United States Bankruptcy Code with respect to the Cottle
22 Respondents.

23 On November 19, 2009, at the status conference, the Division appeared with counsel and the
24 Respondents' attorney who had filed an application to withdraw as their counsel appeared.
25 Respondents were not present. A brief discussion ensued and the proceeding was recessed.

26 On November 20, 2009, the Division filed its Response to Respondents' Petition to Enforce
27 Automatic Stay. With the filing of its Response, the Division caused a copy of its filing to be mailed
28

1 to the Cottles' bankruptcy counsel. The Division, in its Response, pointed out that the Automatic
 2 Stay did not preclude the Commission's action regarding possible violations of the Act because the
 3 Division's action on behalf of the Commission falls within its police or regulatory powers, and are
 4 exempt from the Automatic Stay pursuant to 11 USC § 362(b)(4). Further, the Division cited a
 5 number of cases in support of its position and also included a copy of a previously secured release of
 6 an Automatic Stay granted on January 26, 2006, by the United States Bankruptcy Court as an exhibit
 7 to its filing in this proceeding before the Commission.¹

8 On December 3, 2009, by Procedural Order, counsel for the Cottle Respondents in the
 9 proceeding was permitted to withdraw, and absent a specific stay from the bankruptcy court which
 10 ordered the Commission to stay its action herein, the parties were ordered to appear for the hearing as
 11 scheduled.

12 On January 5, 2010, a Notice of Appearance of Counsel for the Cottle Respondents was filed
 13 by the Baker Law Firm, LLC by Mr. Michael S. Baker.

14 On January 7, 2010, a teleconference was held with the Division and Respondents represented
 15 by counsel. A discussion related to the exchange of Witness Lists and Exhibits took place and
 16 Respondents requested a continuance which was denied.

17 On January 19, 2010, Respondents filed an Expedited Motion for Order to Disclose
 18 Information by Securities Division Re-Urging of Original Motion to Continue ("Expedited Motion").

19 On January 20, 2010, the division filed Securities Division's Motion to Allow Telephonic
 20 Testimony citing relevant case law and prior Commission proceedings where such testimony had
 21 been permitted.

22 On January 27, 2010, the Division filed its response to Respondents' Expedited Motion. The

23
 24 ¹ This release had been secured with respect to another proceeding in Docket No. S-03550A-04-0000 in which the
 Respondents, Arthur B. Cooper and Linda A. Cooper, sought bankruptcy protection. Therein, the Court found as follows:

- 25 "1) The Arizona Corporation Commission is a governmental agency enforcing its police and regulatory power;
 26 2) Pursuant to 11 U.S.C. § 362(b)(4), police and regulatory actions commenced by the Arizona Corporation
 Commission are not stayed by these bankruptcy proceedings; and,
 27 3) The Arizona Corporation Commission may proceed with their investigation, and also proceed to exercise their
 regulatory powers as provided by law.

28 Specifically, the Court recognizes the authority of the Arizona Corporation Commission to enter Orders in
 administrative and civil proceedings, including but not limited to, those that provide for injunctive relief, for penalties, for
 restitution and for the revocation of licenses as provided by law; however, the Arizona Corporation Commission may not
 attempt to execute upon any monetary judgment so long as the Bankruptcy Court has jurisdiction over the debtor."

1 Division cited relevant law to deny the Expedited Motion. Subsequently, by Procedural Order,
2 Respondents' Expedited Motion was denied as was the request to continue the proceeding.

3 Additionally, on January 27, 2010, Respondents filed Respondents' Response to Securities
4 Division's Motion to Allow Telephonic Testimony. Respondents argued that they would be denied
5 due process and cited case law in support of their position.

6 On January 29, 2010, by Procedural Order, the Division's Motion to Allow Telephonic
7 Testimony was granted, and the hearing was to commence on February 8, 2010, as previously
8 ordered.

9 On February 8, 2010, prior to the outset of the hearing, the parties telephonically requested
10 that the hearing be continued until February 9, 2010 because they were negotiating to settle the
11 proceeding.

12 On February 9, 2010, the Division and the Cottle Respondents filed a Joint Stipulation to
13 Continue the proceeding because they had reached a settlement with respect to the Cottle
14 Respondents and would submit a proposed Consent Order for Commission approval at the
15 Commission's March 18, 2010, Open Meeting. The parties further requested that a proceeding be
16 scheduled after March 22, 2010, in the event the Consent Order is not approved. The Division
17 further indicated that it was working to resolve the remaining issues with respect to SRI.

18 On February 10, 2010, by Procedural Order, the stipulation was granted, the hearing was
19 vacated and a status conference was scheduled on March 31, 2010.

20 On February 18, 2010, counsel for the Cottle Respondents filed a Motion to Withdraw as
21 counsel for SRI stating that he had erroneously included SRI in his January 5, 2010, Notice of
22 Appearance and SRI had not authorized him to appear on its behalf.

23 Accordingly, the Baker Law Firm should be permitted to withdraw as counsel to SRI.

24 IT IS THEREFORE ORDERED that the Baker Law Firm, LLC, by Mr. Michael S. Baker, is
25 hereby granted leave to withdraw its representation with respect to SRI.

26 IT IS FURTHER ORDERED that a **status conference** shall be held on **March 31, 2010, at**
27 **9:30 a.m.**, at the Commission's Offices, 1200 West Washington Street, Room 100, Phoenix, Arizona,
28 as previously ordered.

1 IT IS FURTHER ORDERED that if the proposed Consent Order is approved by the
2 Commission, then the Division shall file a motion to vacate the status conference, as previously
3 ordered.


4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized
5 Communications) applies to this proceeding as the matter is now set for public hearing.

6 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
7 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
8 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
9 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
10 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
11 Administrative Law Judge or the Commission.

12 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
13 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
14 *pro hac vice*.

15 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
16 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
17 ruling at hearing.

18 DATED this 25th day of February, 2010.

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21 
22 MARC E. STERN
23 ADMINISTRATIVE LAW JUDGE
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1 Copies of the foregoing mailed/delivered
2 this 25th day of February, 2010 to:

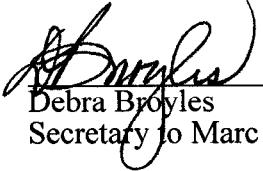
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21 
22 Debra Broyles
23 Secretary to Marc E. Stern
24
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26
27
28